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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,052

11/26/2003

Yoshiaki Mimura

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EXAMINER

THOMAS, BRANDI N

ART UNIT

PAPER NUMBER

2873

MAIL DATE

DELIVERY MODE

08/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/722,052

Applicant(s)

MIMURA, YOSHIAKI

Examiner

Brandi N. Thomas

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/24/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Information Disclosure Statement

1. Acknowledgement is made of receipt of Information Disclosure Statement(s) (PTO-1449) filed 1/24/07. An initialed copy is attached to this Office Action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Isogai et al. (5909269).

Regarding claims 1 and 8, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus comprising: a chin rest (2a) on which a chin of an examinee is placed (col. 3, lines 21-22); a first moving unit (2b) which puts the chin rest (2a) into up/down movement (col. 3, lines 22-25); an examination unit (3) which has an examination optical system for examining an eye of the examinee (col. 3, lines 27-28); a second moving unit (110) which performs alignment by putting the examination unit (3) into up/down movement, right/left movement, and back/forth movement with respect to the eye (col. 3, lines 30-34); an alignment condition detection unit (4) having an image pickup unit (5) which picks up an image of the eye (col. 3, lines 60-66), which detects an alignment condition of the examination unit with respect to the eye (col. 3, lines 56-61); a control unit (100) which obtains alignment deviation of the eye in an up/down direction

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from a reference position based on the image picked up by the image pickup unit (5) (col. 3, lines 28-31), and drives and controls the first moving unit (2b) so that the alignment deviation is within a possible range of the alignment by the second moving unit (110). Which is narrower than a possible range of the up/down movement of the examination unit (3) when the alignment deviation is beyond the possible range of the alignment (col. 3, lines 30-48).

Regarding claims 4 and 9, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, wherein the control unit (100) drives and controls the second moving unit (110) based on a detection result obtained by the alignment condition detection unit (4) (col. 3, lines 30-33).

Regarding claim 6, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, further comprising an informing unit (2c) which informs the chin rest (2a) is to be moved by the first moving unit (2b) (col. 3, lines 24-26).

Regarding claim 7, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, further comprising: a mode-selecting switch (90a and 90b) for selecting any one of a first examination mode in which the examinee him/herself performs examination and a second examination mode in which the examiner performs the examination (col. 6, lines 33-40); a sensor (2c) for sensing that the chin of the examinee is placed on the chin rest (2a) (col. 3, lines 24-26), wherein a detection signal from the sensor becomes a trigger for starting alignment in a case where the first examination mode is selected (col. 6, lines 24-35).

Response to Arguments

4. Applicant's arguments filed 5/3/07 have been fully considered but they are not persuasive. The examiner argues that the apparatus disclosed by the prior art has problems such

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as when the X-, Y-, Z-direction moving mechanisms reach their movement limit, there arises the need for manually moving the chin rest 2a up and down again to redo the examination from the beginning. Isogai et al. disclose the movements of the apparatus in the X, Y, and Z directions to accommodate the examinee, regarding the size of the face and the position of the eye. Therefore, the apparatus would need to be adjusted for examination purposes and the comfort of the patient.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandi N. Thomas whose telephone number is 571-272-2341. The examiner can normally be reached on Monday - Thursday from 6-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandi N Thomas
Examiner
Art Unit 2873

BNT

BNT
July 19, 2007



RICKY MACK
SUPERVISORY PATENT EXAMINER